



# Income Tax (Earnings and Pensions) Act 2003

## 2003 CHAPTER 1

### PART 3

EMPLOYMENT INCOME: EARNINGS AND BENEFITS ETC. TREATED AS EARNINGS

### CHAPTER 10

TAXABLE BENEFITS: RESIDUAL LIABILITY TO CHARGE

#### *Determination of the cost of the benefit*

#### **205 Cost of the benefit: asset made available without transfer**

(1) The cost of an employment-related benefit (“the taxable benefit”) is determined in accordance with this section if—

- [<sup>F1</sup>(a) the benefit consists in an asset being made available for private use, and]
- (b) there is no transfer of the property in the asset.

[<sup>F2</sup>(1A) In this section and section 205A, “private use” means private use by the employee or a member of the employee’s family or household.

(1B) For the purposes of subsection (1) and sections 205A and 205B, an asset made available in a tax year for use by the employee or a member of the employee’s family or household is to be treated as made available throughout the year for private use unless—

- (a) at all times in the year when it is available for use by the employee or a member of the employee’s family or household, the terms under which it is made available prohibit private use, and
- (b) no private use is made of it in the year.

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- (1C) The cost of the taxable benefit is—
- (a) the annual cost of the benefit determined in accordance with subsection (2), less
  - (b) any amount required to be deducted by section 205A (deduction for periods when asset unavailable for private use).
- (1D) In certain cases, the cost of the taxable benefit is calculated under this section in accordance with section 205B (reduction of cost of taxable benefit where asset is shared).]
- (2) The [<sup>F3</sup>annual cost of the] benefit is the higher of—
- (a) the annual value of the use of the asset, and
  - (b) the annual amount of the sums, if any, paid by those providing the benefit by way of rent or hire charge for the asset,
- together with the amount of any additional expense.
- (3) For the purposes of subsection (2), the annual value of the use of an asset is—
- (a) in the case of land, its annual rental value;
  - (b) in any other case, 20% of the market value of the asset at the time when those providing the taxable benefit first applied the asset in the provision of an employment-related benefit (whether or not the person provided with that benefit is also the person provided with the taxable benefit).
- If those providing the taxable benefit first applied the asset in the provision of an employment-related benefit before 6th April 1980, paragraph (b) is to be read as if the reference to 20% were a reference to 10%.
- (4) In this section “additional expense” means the expense incurred in or in connection with provision of the taxable benefit (including a proper proportion of any expense relating partly to provision of the benefit and partly to other matters), other than—
- (a) the expense of acquiring or producing the asset incurred by the person to whom the asset belongs, and
  - (b) any rent or hire charge payable for the asset by those providing the asset.
- [<sup>F4</sup>(5) Where the asset is an emergency vehicle, the expense of providing fuel for it in a tax year is not an additional expense by virtue of subsection (4) so long as—
- (a) the person incurring that expense incurs no expense in that tax year in the provision of fuel for the vehicle which is used for the employee’s private travel (“private fuel expense”), or
  - (b) all private fuel expense that the person does incur in that tax year is made good by the employee on or before 6 July following the tax year.
- (6) For the purposes of this section—
- “emergency vehicle” has the same meaning as in section 248A;
  - “fuel” includes electrical energy;
  - “private travel” means travelling the expenses of which, if incurred and paid by the employee, would not be deductible under Chapter 2 or 5 of Part 5.]

#### Textual Amendments

- F1** S. 205(1)(a) substituted (with effect in accordance with s. 8(5) of the amending Act) by [Finance Act 2017 \(c. 10\)](#), [s. 8\(2\)\(a\)](#)

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- F2** S. 205(1A)-(1D) inserted (with effect in accordance with s. 8(5) of the amending Act) by [Finance Act 2017 \(c. 10\), s. 8\(2\)\(b\)](#)
- F3** Words in s. 205(2) substituted (with effect in accordance with s. 8(5) of the amending Act) by [Finance Act 2017 \(c. 10\), s. 8\(2\)\(c\)](#)
- F4** S. 205(5)(6) inserted (with effect in accordance with s. 9(5) of the amending Act) by [Finance Act 2019 \(c. 1\), s. 9\(4\)](#)

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**Modifications etc. (not altering text)**

- C1** S. 205 modified (12.2.2019) by [Finance Act 2019 \(c. 1\), s. 9\(6\)-\(8\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 452(2)(aa) inserted by [2013 c. 29 Sch. 23 para. 11](#)
- s. 574A(2A) inserted by [2024 c. 3 Sch. 9 para. 61\(2\)](#)
- s. 637G(2)(a)(b) inserted by [S.I. 2024/356 reg. 2](#)
- s. 637Q applied (with modifications) by 2004 c. 12, Sch. 36 para. 20(1A) (as inserted) by [2024 c. 3 Sch. 9 para. 77\(3\)](#)
- s. 637R applied (with modifications) by 2004 c. 12, Sch. 36 para. 19(2)(2A) (as substituted) by [2024 c. 3 Sch. 9 para. 76\(4\)](#)
- s. 637S applied (with modifications) by 2004 c. 12, Sch. 36 para. 20(2) (as amended) by [2024 c. 3 Sch. 9 para. 77\(4\)\(a\)](#)
- s. 688AB inserted by [2024 c. 3 s. 17\(1\)](#)
- s. 707A inserted by [2024 c. 3 s. 36\(4\)](#)